IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH, NAGPUR.

W.P.NO.1836/07, 1837/07, 1842/07, 1844/07 & 1846/07.

W.P.NO. 1836/2007.

Forest Development Corporation
Maharashtra Ltd., through its
Divisional Manager, Forest Project
Division, Bhandara, Ramabai Ward,
Nagpur Road, Bhandara.

.. **PETITIONER**.

// VERSUS //

1. Suresh Shivshankar Shivankar
and Twelve others.

.... **RESPONDENTS**.

W.P.NO. 1837/2007.

Forest Development Corporation
Maharashtra Ltd., through its
Divisional Manager, Forest Project
Division, Bhandara, Ramabai Ward,
Nagpur Road, Bhandara.

.. **PETITIONER**.

// VERSUS //

1. Gnyaniram Punaji Pakhmode
and Three others.

.... **RESPONDENTS**.

W.P.NO. 1842/2007.

Forest Development Corporation
Maharashtra Ltd., through its
Divisional Manager, Forest Project
Division, Bhandara, Ramabai Ward,
Nagpur Road, Bhandara.

.. **PETITIONER**.

// VERSUS //

Teliram S/o. Kashinath Hatwade
R/o. Baradkini, Po. Khandara,
Tah. Lakhani, Distt. Bhandara.

.... **RESPONDENTS**.

W.P.NO. 1844/2007.

Forest Development Corporation
Maharashtra Ltd., through its
Divisional Manager, Forest Project
Division, Bhandara, Ramabai Ward,
Nagpur Road, Bhandara.
and another.

.. **PETITIONERS**.

// VERSUS //

1. Udaram S/o. Sandhu Kursunge,
   R/o. Girola, Tah.Sakoli, Dist.Bhandara.

.... **RESPONDENT**.

W.P.NO. 1846/2007.

Forest Development Corporation
Maharashtra Ltd., through its
Divisional Manager, Forest Project
Division, Bhandara, Ramabai Ward,

Nagpur Road, Bhandara.

.. **PETITIONER**.

// VERSUS //

1. Ravindra S/o. Laxman Borkar,
aged Adult, R/o. Rengapar (Kotha),
Tahsil : Lakhani, Distt. Bhandara.

.... **RESPONDENT**.

Shri R.S. Giripunje, Advocate for Petitioners.

CORAM: R.C. CHAVAN, J.

DATED : MAY 04, 2007.

ORAL ORDER :

1. By Writ Petitions No.1836 of 2007 and 1842 of 2007, the petitioner – Forest Development Corporation of Maharashtra Ltd. seeks quashing of direction No.5 in orders dated 17-10-2006 passed by the learned Member, Industrial Court, Bhandara, in Revision (ULPA) No.79 of 2006, 83 of 2006, 77 of 2006 and 77 of 2006. Similar is the prayer in Writ Petition No. 1837 of 2007 and 1846 of 2007 in respect of direction No.5 in orders dated 9-11-2006 in Revision (ULPA) Nos.97 of 2006 and 93 of 2006. These revision applications were directed against common orders passed by the learned

Judge, Labour Court, Bhandara, on 3-8-2006 partly allowing Complaint (ULPA) Nos.13 of 2000, 38 of 2000 and 39 of 2000.

2. Writ Petition No.1844 of 2007 is directed against order dated 17-10-2006 passed by the learned Member, Industrial Court, Bhandara, in petitioner's Revision (ULPA) No.80 of 2006 arising out of order dated 30-6-2006 of the learned Judge, Labour Court, Bhandara, in Complaint (ULPA) No.56 of 2000.

3. Facts, which led to these proceedings are as under :

All the respondents/original complainants claimed to have been engaged as Watchmen by the present petitioner. The petitioner prepared a seniority list of all similarly placed workmen and called for objections, allegedly giving only two days' time. Acting upon such list, the petitioner terminated services of complainants by orders dated 25-8-2000 by giving them one month's pay in lieu of notice and retrenchment compensation. The grievance of the complainants/workmen was that while workers who were junior to them were retained in service, the complainants were given pink slips. Therefore, they filed complaints under Section 28 of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, challenging their termination.

4. By his order dated 30-6-2000, the learned Judge allowed complaint No.56 of 2000 of Udaram Kursunge (respondent in Writ Petition No.1844 of 2006). By common order dated 3-8-2006 in Complaint (ULPA) Nos.13 of 2000, 38 of 2000 and 39 of 2000, the learned Judge partly allowed these complaints holding that the petitioner had indulged in unfair labour practice in respect of Teliram Kashinath Hatwade (respondent in Writ Petition No.1842 of 2007), Suresh Dayaram Kathane (respondent No.2 in Writ Petition No.1836 of 2007), and Suresh Shivshankar Shivankar (respondent No.1 in Writ Petition No.1836 of 2007). He dismissed the complaints of others.

5. Being aggrieved by these orders, the petitioner filed Revision (ULPA) Nos.80 of 2006 (against Udaram, respondent in Writ Petition No.1844 of 2007), 79 of 2006 (against respondents No.1 and 2 in Writ Petition No. 1836 of 2007), and 77 of 2006 and 78 of 2006 (against respondent in Writ Petition No.1842 of 2007. Some of the aggrieved workmen filed Revision (ULPA) No.83 of 2006. All these revisions were decided by common judgment dated 17-10-2006. The learned Member set aside the orders in favour of complainants holding that the learned Labour Judge should not have read the earlier seniority lists on which workmen had placed reliance and

remanded the complaints for fresh enquiry. He also allowed partly workmen's Revision (ULPA) No.83 of 2006 and gave direction No.5 in his order as under :

> "5. Original Comp.(ULPA) Nos.13/2000, 38/2000 and 39/2006 filed by the Original complainants are hereby restored and remanded to the file of Labour Court, Bhandara to decide the same afresh by giving proper opportunity to the parties in revision (ULPA) Nos.77/2006 to 79/2006 and Revision (ULPA) No.83 of 2006 to lead further evidence, to produce document or to amend their pleadings, if any."

6. Remaining aggrieved workmen filed Revision (ULPA) No.93 of 2006 and 97 of 2006, which were partly allowed by the learned Member by his order dated 9-11-2006. The learned Member remanded the complaints back to the Labour Court with the following directions :

> "IV. Original Comp.(ULPA) Nos.13/2000 and 38/2000 filed by the original complainants are hereby restored and remanded to the file of Labour Court, Bhandara to decide the same afresh by giving proper opportunity to the parties in Revision (ULPA) Nos.93/2006 and 97/2006.
>
> V. The revision applicants should apply before the Labour Court, Bhandara seeking permission to lead oral evidence in the matter, if they did not lead evidence in the original proceedings."

7. I have heard the learned counsel for the petitioner. As already pointed out the petitioner – Forest Development Corporation of Maharashtra Ltd. has no grievance about the learned Member Industrial Court, having allowed its revision and remanded the matters back for trial. The grievance is about the directions quoted above. Though prayers in Writ Petition No.1844 of 2007 are not couched in above terms, it is apparent that here too what the petitioner objects to is not remand of the matter, but permission granted by the learned Member to the parties to tender further evidence or amend pleadings. Writ Petition No.1844 of 2007 arose out of orders passed on petitioner's revision, whereby the revision was allowed and order of Labour Court directing reinstatement of Udaram Sadhu Kursunge was set aside.

8. The learned counsel for the petitioner submitted that the revisional jurisdiction of the Industrial Court under Section 44 of the MRTU & PULP Act is extremely limited. For this purpose he drew my attention to judgment of this Court in *V.R. Walvekar, Dr.(Mrs.) & Ors. Vs. Gopal N. Marathe & anr.*, reported at **2003 II CLR 791**. In that case the learned Member, Industrial Court while allowing the revision application quashed and set aside the order of the Labour Court dismissing the complaint of unfair labour practices and had proceeded to hold that the employer was

guilty of unfair labour practice. This Court had observed that the Industrial Court should not have interfered in order passed by the Labour Court unless it indicated perversity in findings or findings being contrary to the material on record. In *M.S.R.T.C. Vs. Kantrao s/o. Gyanbarao Dabhale*, reported at **2000 II CLR 865** this Court had considered the scope of jurisdiction under Section 44 of the MRTU & PULP Act and had held, relying on judgment in *Vitthal Gattu Marathe* v. *M.S.R.T.C.*, reported in **1995 I CLR 854**, that provisions of Section 44 was almost pari materia with the provisions of Article 227 of the Constitution of India. Jurisdiction under Section 44 is not revisional jurisdiction, but jurisdiction of superintendence and therefore, in exercise of jurisdiction of superintendence and supervision the Court could not have gone to appreciate or re-appreciate the material on record.

9. I have carefully considered these decisions. There can be no doubt that the Court exercising jurisdiction under Section 44 of the MRTU & PULP Act would not be entitled to appreciate the evidence or undertake the work of sifting the evidence. All the same, it does not follow that the Industrial Court exercising jurisdiction under Section 44 of the Act, should ignore irregularities committed or allow cause of justice to be abandoned for technical considerations. When the petitioner is not aggrieved about the order of remand of cases where the learned Member had set aside the order

of Labour Court directing the petitioner to reinstate Teliram Hatwade, Suresh Shivankar, Suresh Kathane and Udaram Kursunge, it would not lie in the mouth of the petitioner that the order of remand for further inquiry was beyond the jurisdiction of the Industrial Court exercising powers under Section 44 of the Act. Once the matter is remanded, if the original complainants too are given opportunity to lead further evidence or produce documents or to amend their pleadings it is unlikely to cause any prejudice to the petitioner. Here the case is not of appreciating or re-appreciating the material, but only question of allowing the parties opportunity to place their cases exhaustively before the trial Court, since the matters were being anyhow remanded at the instance of the petitioner. It may be recalled that the complainants who have been given a chance of tendering material before the trial Court are not individual complainants who had filed separate complaints, but, some amongst several complainants, who were unfortunate in not having their complaints accepted by the Labour Court. When a number of workmen join in filing a complaint, losing sight of a detail affecting one or more of them is not unusual. The question is simply whether these workmen are senior to those retained by the petitioner while retrenching the respondents. Therefore, when at petitioner's instance matters are being remanded, about which the petitioner has no grievance, it cannot grieve about opportunity to workmen to tender additional material. Making such a

grievance may indicate an awkward apprehension of some troublesome truths surfacing, which impression a Public Corporation like petitioner must eschew.

10. In view of this, it cannot be said that the order passed by the learned Member, Industrial Court was beyond his jurisdiction or perverse calling for interference in exercise of writ jurisdiction under Articles 226 or 227 of the Constitution.

11. Consequently Writ Petitions No. 1836/2006, 1837/2006, 1842/2006, 1844/2006 and 1846/2006 are dismissed.

JUDGE

RR..